

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS

EL PASO DIVISION

IN RE:

Joe Rutilo Rodriguez

Debtor

\* Chapter 13  
\*  
\*  
\*  
\*  
\* Bankruptcy No. 10-31834

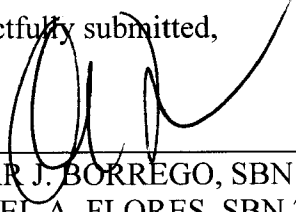
AMENDED  
CHAPTER 13 PLAN

Attached hereto and made a part hereof is the Debtor's Amended CHAPTER 13 PLAN, where Mitsubishi Digital has been added to roman numeral IV and where the wording has been corrected on Monica Rodriguez.

DATED this the 16 day of 10, 2010.

Respectfully submitted,

  
Joe Rutilo Rodriguez

  
EDGAR J. BORREGO, SBN 00787107  
MIGUEL A. FLORES, SBN 24036574  
SOL M. CORTEZ, SBN 24071080  
Attorneys for Debtor  
2610 Montana Avenue  
El Paso, TX 79903  
(915) 566-4300

CERTIFICATE OF SERVICE

I hereby certify that I have mailed/delivered a true and correct copy of the foregoing instrument via electronic means as listed on the court's ECF noticing system or by regular first class mail to all on the attached matrix on this the 18 day of 10, 2010.

  
EDGAR J. BORREGO/MIGUEL A. FLORES/SOL M. CORTEZ

Label Matrix for local noticing  
0542-3  
Case 10-31834-hcm  
Western District of Texas  
El Paso  
Fri Oct 15 14:00:51 CDT 2010

Advance America  
1320 N. Zaragosa Ste. 121  
El Paso, TX 79936-7930

Bank of Oklahoma, N.A.  
7060 South Yale, suite 200  
Attn: Bankruptcy Department  
Tulsa, OK 74136-5711

Care Credit/GE Money Bank  
PO Box 981438  
El Paso, TX 79998-1438

Del Sol Medical Center  
Patient Accts. Dept.  
P.O. Box 409300  
Atlanta, GA 30384-9300

(p)DISCOVER FINANCIAL SERVICES LLC  
PO BOX 3025  
NEW ALBANY OH 43054-3025

FHA/HUD  
Federal Office Bldg.  
1205 Texas Ave.  
Lubbock, TX 79401-4093

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 21126  
PHILADELPHIA PA 19114-0326

Medical Payment Data  
c/o Paramount Recovery System  
111 E Center St  
Lorena, TX 76655-9651

Monica Rodriguez  
c/o Attorney General/State of Texas  
Child Support Division  
6090 Surety Dr., Ste. 250  
El Paso, TX 79905-2062

U.S. BANKRUPTCY COURT  
P.O. BOX 971040  
EL PASO, TX 79997-1040

Attorney General  
10th & Constitution N.W.  
Main Justice Bldg. #5111  
Washington, DC 20530-0001

Bank of Oklahoma, N.A.  
c/o June A. Mann  
550 Westcott, suite 560  
Houston, TX 77007-9000

Citi Card  
Box 6000  
The Lakes, NV 89163-0001

Del Sol Medical Center  
c/o NCO Financial Systems, Inc.  
P.O. Box 41421, Dept. 38  
Philadelphia, PA 19101

Discover Bank  
Dfs Services LLC  
PO Box 3025  
New Albany, OH 43054-3025

Furniture Row Express Card  
Retail Services  
P.O. Box 15521  
Wilmington, DE 19850-5521

Maria Teresa Rodriguez  
9292 Morelia  
El Paso, TX 79907-3346

Mitsubishi Digital (HRS)  
P.O. Box 703  
Wood Dale, IL 60191-0703

Monica Rodriguez  
c/o Domestic Relations Office  
500 E. San Antonio STE LL - 108  
El Paso, TX 79901-2419

A-1 Loans  
800 North Zaragoza Road  
El Paso, TX 79907-2519

Attorney General of Texas Child Support Divi  
6090 Surety Drive, Suite 250  
El Paso, Texas 79905-2062

Capital One  
P.O. Box 30285  
Salt Lake City, UT 84130-0285

City of El Paso  
c/o Don Stecker  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

Dept of education NELNET  
121 S. 13 St., Ste 201  
Lincoln, NE 68508-1911

El Paso Teachers FCU  
12020 Rojas Drive  
El Paso, TX 79936-7711

HSBC Bank Nevada, N.A.  
Bass & Associates, P.C.  
3936 E. Ft. Lowell Rd, Suite 200  
Tucson, AZ 85712-1083

(p)SECURITY FINANCE CENTRAL BANKRUPTCY  
P O BOX 1893  
SPARTANBURG SC 29304-1893

Monica Rodriguez  
12454 Paseo Lago Dr.  
El Paso, TX 79928-5683

Monica Rodriguez  
c/o SDU (Child Disbursement Unit)  
P.O. Box 659791  
San Antonio, TX 78265-9791

Nelnet on behalf of the US Department of Edu  
3015 South Parker Road Suite 400  
Aurora CO 80014-2904

Questcare Medical Services  
P.O. Box 201611  
Dallas, TX 75320-1611

Questcare Medical Services  
c/o Paramount Recovery Systems  
P.O. Box 788  
Lorena, TX 76655-0788

Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

Sears  
P.O. Box 6282  
Sioux Falls, SD 57117-6282

Tax Assessor/Collector  
P.O. Box 313  
El Paso, TX 79999-0313

The Roomstore  
c/o Household Bank  
P.O. Box 81622  
Salinas, CA 93912-1622

U.S. Attorney/FHA/HUD/IRS/VA  
601 N.W. Loop 410  
Suite 600  
San Antonio, TX 78216-5512

U.S. Bank Home Mortgage  
P.O. Box 20005  
Owensboro, KY 42304-0005

U.S. Banks of Home Mortgage  
c/o Bank of Texas  
P.O. Box 35688  
Tulsa, OK 74153-0688

United States Trustee - EP12  
U.S. Trustee's Office  
615 E. Houston, Suite 533  
P.O. Box 1539  
San Antonio, TX 78295-1539

Veterans Administration  
Attn: Support Services Division (243)  
701 Clay Avenue  
Waco, TX 76799-0001

WELLS FARGO BANKRUPTCY DEPARTMENT  
13675 TECHNOLOGY DR., BLDG. C, 2ND FLOOR  
Eden Prairie, MN 55344-2252

Wal-Mart/GE Money Bank  
Attn: Bankruptcy Department  
P.O. Box 103104  
Roswell, GA 30076-9104

Wells Fargo Auto Finance, Inc.  
Consumer Loan Servicing Center  
P.O. Box 93399 MAC Q2131-014  
Albuquerque, NM 87199-3399

Wells Fargo Bank, N.A.  
4137 121st Street  
Urbandale IA 50323-2310

Wells Fargo Bank, N.A.  
Wells Fargo Auto Finance  
Attn: MAC F6582-034  
PO Box 500  
Chester, PA 19016-0500

Wells Fargo Financial  
P.O. Box 98798  
Las Vegas, NV 89193-8798

Joe Rutilo Rodriguez  
9292 Morelia Rd.  
El Paso, TX 79907-3346

Miguel Alejandro Flores  
Tanzu & Borrego  
2610 Montana  
El Paso, TX 79903-3712

Stuart C. Cox  
1760 N. Lee Trevino Dr.  
El Paso, TX 79936-4565

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Discover  
P.O. Box 15192  
Wilmington, DE 19850-5192

Internal Revenue Service  
P.O. Box 21126  
Philadelphia, PA 19114-0326

Maverick Finance  
657 Horizon Blvd. Spc C  
El Paso, TX 79927

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Medical Payment Data

End of Label Matrix	
Mailable recipients	50
Bypassed recipients	1
Total	51

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

IN RE: Joe Rutilo Rodriguez

Debtor(s)

\*  
\*  
\*  
\*

Case No. 10-31834

Chapter 13 Proceeding

**☒ AMENDED ☐ MODIFIED**  
**DEBTOR(S) CHAPTER 13 PLAN**  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

*Creditors are hereby notified that the following Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. The Debtor(s) estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in El Paso or Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).*

*Use of the singular word "Debtor" in this plan includes the plural where appropriate.*

**Plan Summary**

- A. The Debtor(s) plan payment will be \$1,150.00 per month, paid by ☒ Pay Order or ☐ Direct Pay, for 60 months. **\$530.76 to be deducted from Debtor's Bi-Weekly wages at County of El Paso.** The gross amount to be paid into the Plan is \$69,000.00.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI below, and approximately 6 % of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.

- C. The value of the Debtor(s) non-exempt assets is \$0.00.
- D. If the payment of any debt is proposed to be paid directly by the Debtor(s) outside the Plan, it is so noted in Section VI(1), set forth below.

## Plan Provisions

### **I. Vesting of Estate Property**

- ☐ Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- ☒ Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- ☐ Other (describe):

### **II. Pre-Confirmation Disbursements**

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of payments prior to confirmation of the Plan to evidence the Debtor(s) good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

Creditor/Collateral	Pre-Confirmation Payment Amount	Other Treatment Remarks

### **III. Executory Contracts/Unexpired Leases/Contracts for Deed**

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to **assume** the following executory contracts, unexpired leases, and/or contracts for deed, if any:

- NONE -

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to **reject** the following executory contracts, unexpired leases, and/or contracts for deed, if any:

- NONE -

### **IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506**

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI(2)(F).

The Debtor(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks
Furniture Row Express Card LivingRoom\$500 Dining Room \$500	\$8,272.00	\$1,000.00	Pro-rata, estimated payment to be \$16.96	6.5%	\$1,000.00	Furniture Condition is Fair, Date of purchase is 2005

Mitsubishi Digital (HRS) TV \$500	\$7,119.00	\$500.00	Pro-rata, estimated payment to be \$8.48	5.5%	\$500.00	Furniture Condition is Good, Date of purchase is 2005
The Roomstore 2 Bedroom sets \$600	\$4,226.00	\$600.00	Pro-rata, estimated payment to be \$10.18	5.5%	\$600.00	Furniture Condition is Good, Date of purchase is 2006
Wells Fargo Auto Finance, Inc. 2008 Hyundai Elantra	\$17,270.00	\$12,425.00	Pro-rata, estimated payment to be \$210.72	5.5%	\$12,425.00	Car Loan Condition is Fair, Date of purchase is 2/2008

"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 10-10, 2010.

Debtor **Joe Ruffilo Rodriguez**

Co-Debtor

#### V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI(2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If not timely objection is filed, the relief requested maybe granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien (e.g., judicial lien, nonpurchase-money security interest, etc.)

Creditor	Property Subject to Lien	Amount of Lien to Be Avoided	Remarks
- NONE -			

#### VI. Specific Treatment for Payment of Allowed Claims

##### 1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS, INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS

A. Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation ("DSO"), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, must be paid directly. Minors should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

Creditor/Collateral, if any (including the name of each DSO creditor)	Remarks	Debt Amount	Payment Amount/Interval
Monica Rodriguez Pre and Post-Petition Debt To be Paid Outside the Plan	Child Support	\$9,227.00	\$1,232.00/month
Tax Assessor/Collector HOMESTEAD 12454 Paseo Lago El Paso TX 79928	2010 Property taxes and all other delinquent tax years Property Taxes to be Paid by Escrow	\$0.00	\$0.00/month
U.S. Bank Home Mortgage HOMESTEAD 12454 Paseo Lago El Paso TX 79928	Arrears including AUG. 2010 for approx \$5,163.24 to be paid under the plan. Post Petition Payments to be Paid Outside Plan	\$196,450.00	\$1,809.00/month

B. Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

Creditor/Collateral	Collateral to Be Surrendered
- NONE -	

## **2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS**

### **A. Administrative Expenses**

Administrative Expenses shall include the Trustee's commission and debtor(s) attorney's fees. The Trustee shall receive up to 10% of all sums disbursed, except on any funds returned to the Debtor. No fees or expenses of counsel for the debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
Tanzy & Borrego Law Offices	\$2,995.00	Along With	The trustee shall make distribution of the base fee awarded in the confirmation order equal to one month's plan payment for up to the first four months of the term of the plan. The remainder of the base fee due the attorney (if any) shall be paid at the rate of \$100 a month until paid in full.

### **B. Priority Claims, Including Domestic Support Obligation Arrearage Claims**

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured creditors	Remarks
- NONE -			

### **C. Arrearage Claims**



Creditor/Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks
U.S. Bank Home Mortgage HOMESTEAD 12454 Paseo Lago El Paso TX 79928	\$5,163.24	\$162,000.00	Pro-rata, estimated payment to be \$84.60	5.53618 %	\$5,163.24	Arrears including AUG. 2010 for approx \$5,163.24 to be paid under the plan. Post Petition Payments to be Paid Outside Plan

D. Cure Claims on Assumed Contracts, Leases, and Contracts for Deed:

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks
- NONE -			

E. Secured Creditors

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the debtor's case is dismissed or converted without completion of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/ Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/ Remarks (specifically note if claim amount to be paid although greater than value of collateral)
El Paso Teachers FCU 2008 Ford F-150	\$25,932.00	\$25,932.00	Pro-rata, estimated payment to be \$424.90	5.5%	\$25,932.00	Car Loan Fully Secured
Furniture Row Express Card LivingRoom\$500 Dining Room \$500	\$8,272.00	\$1,000.00	Pro-rata, estimated payment to be \$16.39	6.5%	\$1,000.00	Furniture
Mitsubishi Digital (HRS) TV \$500	\$7,119.00	\$500.00	Pro-rata, estimated payment to be \$8.19	5.5%	\$500.00	Furniture
The Roomstore 2 Bedroom sets \$600	\$4,226.00	\$600.00	Pro-rata, estimated payment to be \$9.83	5.5%	\$600.00	Furniture
Wells Fargo Auto Finance, Inc. 2008 Hyundai Elantra	\$17,270.00	\$12,425.00	Pro-rata, estimated payment to be \$203.59	5.5%	\$12,425.00	Car Loan

F. General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed). Describe treatment for the class of general unsecured creditors.

Creditor	Claim Amount	Remarks
A-1 Loans	\$700.00	

Attorney General	\$0.00	
Capital One	\$528.00	
Care Credit/GE Money Bank	\$2,473.00	
Citi Card	\$7,381.00	
Del Sol Medical Center	\$345.00	
Del Sol Medical Center	\$373.00	
Del Sol Medical Center	\$0.00	
Dept of education NELNET	\$15,333.00	
Dept of education NELNET	\$16,007.00	
Discover	\$6,842.00	
FHA/HUD	\$0.00	
*Furniture Row Express Card	\$7,272.00	
Maverick Finance	\$1,200.00	
Medical Payment Data	\$590.00	
Medical Payment Data	\$0.00	
*Mitsubishi Digital (HRS)	\$6,619.00	
Questcare Medical Services	\$96.00	
Questcare Medical Services	\$373.00	
Questcare Medical Services	\$0.00	
Sears	\$994.00	
*The Roomstore	\$3,626.00	
U.S. Attorney/FHA/HUD/IRS/VA	\$0.00	
Veterans Administration	\$0.00	
Wal-Mart/GE Money Bank	\$1,037.00	
*Wells Fargo Auto Finance, Inc.	\$4,845.00	
WELLS FARGO BANKRUPTCY DEPARTMENT	\$3,463.00	
Wells Fargo Financial	\$2,056.00	

\* Indicates the unsecured portion of a Secured Claim, the nonpriority portion of a Priority Claim, or the full amount of an avoided Secured Claim.

#### Totals:

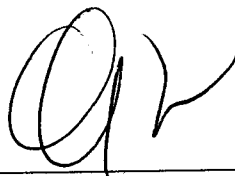
Administrative Claims \$2,995.00  
Priority Claims \$0.00  
Arrearage Claims \$3,618.00  
Cure Claims \$0.00  
Secured Claims \$40,457.00  
Unsecured Claims \$82,153.00

### VII. Supplemental Plan Provisions

The following are the Supplemental Plan Provisions:

1. Unless the plan is a full pay plan, all of the debtor's projected disposable income to be received in the three-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.
2. If any secured proof of claim is filed for a debt that was either not listed or listed as unsecured, the claim shall be allowed as secured unless it is objected to. Said claim shall be paid under the plan at 10% interest. Likewise, if any priority proof of claim is filed for a debt that was either not listed or listed as unsecured, the claim shall be allowed as priority unless it is objected to. Said priority claim shall not be paid with any interest.
3. If a creditor is listed as secured and scheduled to receive pre-confirmation disbursements and post-confirmation payments along with the other secured creditors, but such creditor subsequently files an unsecured claim, then the creditor will not receive any pre-confirmation disbursements and upon confirmation will be paid along with the other unsecured creditors. The funds that were allocated to such creditor as a pre-confirmation disbursement will be distributed on a pro-rata basis to the other secured creditors. Similarly, the funds scheduled to be received by such creditor along with other secured creditors upon confirmation will also be distributed to the other secured creditors on a pro-rata basis.

Respectfully submitted this 16 day of 10, 2010.



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Attorney for Debtor

**Edgar Borrego 00787107**

**Miguel Flores 24036574**

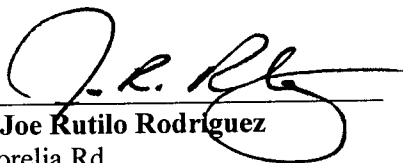
**Sol M. Cortez 24071080**

2610 Montana Avenue

El Paso, TX 79903

(915) 566-4300

Fax: (915) 566-1122



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Debtor **Joe Rutilo Rodriguez**

9292 Morelia Rd.

El Paso, TX 79907

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Co-Debtor